United Nations PCNICC/2000/L.3

Preparatory Commission for the International Criminal Court

Distr.: Limited
28 June 2000
English
Original: Arabic/English

New York
13-31 March 2000
12-30 June 2000
27 November-8 December 2000

Proceedings of the Preparatory Commission at its fifth session (12-30 June 2000)

Draft summary

Rapporteur: Mr. Salah **Suheimat** (Jordan)

1. The Preparatory Commission for the International Criminal Court, established in accordance with resolution F adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, met at United Nations Headquarters from 12 to 30 June 2000, in accordance with General Assembly resolution 54/105 of 9 December 1999.

2. In accordance with paragraph 2 of resolution F of the Conference, the Preparatory Commission consists of representatives of States which signed the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and other States which were invited to participate in the Conference.

3. Under paragraph 3 of General Assembly resolution 54/105, the Secretary-General was requested to convene the Preparatory Commission, in accordance with resolution F of the Conference, from 13 to 31 March, 12 to 30 June and 27 November to 8 December 2000, to carry out the mandate of that resolution and, in that connection, to discuss ways to enhance the effectiveness and acceptance of the Court.

4. In accordance with paragraph 5 of resolution 54/105, the Secretary-General invited, as observers to the Preparatory Commission, representatives of organizations and other entities that have received a standing invitation from the General Assembly, pursuant to its relevant resolutions, to participate in the capacity of observers in its sessions and work, and also invited as observers to the Preparatory Commission representatives of interested regional intergovernmental organizations and other interested international bodies, including the international tribunals for the former Yugoslavia and for Rwanda.

5. Under paragraph 6 of the same resolution, non-governmental organizations may participate in the work of the Preparatory Commission by attending its plenary and its other open meetings, in accordance with the rules of procedure of the Commission, receiving copies of the official documents and making available their materials to delegates.

6. The Bureau of the Preparatory Commission, elected at its 1st and 2nd meetings, on 16 and 22 February 1999, continued its work with the following composition:

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Chairperson:
Mr. Philippe Kirsch (Canada)

Vice-Chairpersons:
Mr. George Winston McKenzie (Trinidad and Tobago)
Mr. Medard R. Rwelamira (South Africa)
Mr. Muhamed Sacirbey (Bosnia and Herzegovina)

Rapporteur:
Mr. Salah Suheimat (Jordan)

7. The Director of the Codification Division of the Office of Legal Affairs, Mr. Václav Mikulka, acted as Secretary of the Preparatory Commission. The Codification Division provided the substantive servicing for the Commission.

8. At its fifth session, the Preparatory Commission proceeded with its work on the basis of its agenda (PCNICC/1999/L.1), adopted on 16 February 1999.

9. Taking account of the priorities set forth by resolution F of the Conference, the Preparatory Commission agreed on a work plan for the June session, focusing on two essential instruments necessary for the functioning of the Court: the Rules of Procedure and Evidence, and the Elements of Crimes. The Commission also held a number of meetings and consultations with respect to the crime of aggression.

10. The coordinators, designated by the Chairperson, in consultation with the Bureau, at the first session of the Preparatory Commission,[1] continued their work also during the fifth session of the Preparatory Commission.

11. At its 23rd meeting, on 30 June 2000, the Preparatory Commission adopted its report containing the finalized draft texts of the Rules of Procedure and Evidence and the Elements of Crimes (see PCNICC/2000/1 and Add.1 and 2).

12. At the same meeting, the Preparatory Commission took note of the oral report of the coordinator for the crime of aggression.

13. At its 22nd meeting, on 28 June 2000, the Preparatory Commission decided, in accordance with its mandate under resolution F of the Rome Conference, to consider, at its sixth session, to be held from 27 November to 8 December 2000, in addition to the crime of aggression, the following three items: the Relationship Agreement between the Court and the United Nations; the Financial Regulations and Rules of the Court; and the Agreement on Privileges and Immunities of the Court. At the same meeting, the Preparatory Commission also decided to establish working groups on each of the three new items. The Chairman informed the Commission that the coordinators for the three new items and the contact points for the remaining items within its mandate under resolution F would be announced at the next session.[2] In order to facilitate its work, the Preparatory Commission requested the Secretariat to prepare purely technical drafts, including only standard provisions, for the three instruments and to distribute them in advance to enable delegations to study them carefully.

14. The Preparatory Commission was addressed by Judge Navanethem Pillay and Judge Erik Møse, the President and Vice-President of the International Criminal Tribunal for Rwanda, respectively, at its 17th meeting, on 12 June 2000; and Judge Claude Jorda, President of the International Tribunal for the Former Yugoslavia, at its 19th meeting, on 19 June 2000.

15. The Preparatory Commission took note of the inter-sessional meeting of the coordinators and sub-coordinators dealing with the Rules of Procedure and Evidence hosted by the Government of Canada in Mont-Tremblant from 30 April to 5 May 2000.

16. The Preparatory Commission also noted with satisfaction that, during its fifth session, a total of 11 delegates had made use of the trust fund which, pursuant to paragraph 8 of General Assembly resolution 53/105 of 8 December 1998, had been established to facilitate the participation of the least developed countries in the work of the Commission. The Preparatory Commission also expressed its appreciation for the recent contribution to the trust fund by Norway.

17. The list of documents relating to the Rules of Procedure and Evidence and the Elements of Crimes

[1] For the list of coordinators, see PCNICC/1999/L.5/Rev.1, paras. 11-12.

[2] The remaining items are the following: the basic principles governing a Headquarters Agreement to be negotiated between the Court and the host country; a budget for the first financial year; the rules of procedure of the Assembly of States Parties; and, in connection with carrying out the mandate of resolution F, discussion of ways to enhance the effectiveness and acceptance of the Court.

issued at the first to fifth sessions of the Preparatory Commission, held in 1999 and 2000, is contained in the report of the Preparatory Commission (PCNICC/2000/1, annex I). The list of documents relating to the crime of aggression and other matters issued at those sessions is contained in annex I to the present document.